

APPROVED

PLANNING COMMISSION MINUTES

January 12, 2011

OATH OF OFFICE FOR NEW PLANNING COMMISSIONER

Mary Lavelle, City Clerk, swore in **Zeya Mohsin** as Commissioner of the Planning Commission. Commissioner Mohsin then took her place alongside the Commissioners.

I. ROLL CALL/SEATING OF ALTERNATE

Present: Larry Ciardella, John Luk, Sudhir Mandal, Zeya Mohsin, Gurdev Sandhu, Noella Tabladillo, Steve Tao, and Mark Tiernan
Absent: None
Staff: Andrade, Brown, Hom, Lavelle, Lindsay, and Otake

II. PLEDGE OF ALLEGIANCE

Vice-Chair Mandal called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

James Lindsay, Planning Director, recommended moving Election of Officers before the Recognition of Cliff Williams.

Motion to move Election of Officers to the beginning of the meeting.

M/S: Ciardella, Tabladillo

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

James Lindsay opened the nominations for Chair. Commissioner Sandhu nominated Mark Tiernan. Commissioner Ciardella nominated Sudhir Mandal. Commissioner Tiernan was elected Chair.

III. RECOGNITION OF CLIFF WILLIAMS' SERVICE ON THE COMMISSION (A short recess will be called)

Cliff Williams thanked staff and the Commission and said it was a pleasure to serve the Commission. Mr. Lindsay announced a short recess with refreshments.

IV. PUBLIC FORUM

Chair Tiernan invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

Frank DeSmidt, Chamber of Commerce, announced the Gene Schwab Awards luncheon on Monday, January 31, 2011 at 12:00 pm at the Embassy Suites.

V. APPROVAL OF MINUTES December 8, 2010

Chair Tiernan called for approval of the minutes of the Planning Commission meeting of December 8, 2010.

There were no changes to the minutes.

Motion to approve the minutes of December 8, 2010 as submitted.

M/S: Ciardella, Sandhu
AYES: 6
NOES: 0
ABSENT: 0
ABSTAIN: 1 (Sudhir Mandal)

- VI. ANNOUNCEMENTS** Commissioner Sandhu announced the anniversary of the Sikh community. Chair Tiernan thanked the Commission for voting for him as chair.
- VII. CONFLICT OF INTEREST** Assistant City Attorney, Bryan Otake, asked if any member of the Commission has any personal or financial conflict of interest related to any of the items on tonight's agenda. There were no Commissioners who identified a conflict of interest.
- VIII. APPROVAL OF AGENDA** Chair Tiernan asked whether staff or the Commission have any changes to the agenda. There were no changes to the agenda beyond the change noted earlier where the Election of Officers was moved to the beginning of the meeting.
Motion to approve the agenda as submitted.
M/S: Sandhu, Mandal
AYES: 7
NOES: 0
ABSENT: 0
ABSTAIN: 0
- IX. ELECTION OF OFFICERS** This item was discussed earlier in the meeting.
- X. CONSENT CALENDAR** Chair Tiernan asked whether staff, the Commission, or anyone in the audience wish to remove or add any items to the consent calendar. There were no changes to the Consent Calendar. Chair Tiernan opened the public hearing on Item No. X-1 and Item No. X-2. There were no speakers from the audience.
Motion to close the public hearing on Item No. X-1 and Item No. X-2.
M/S: Tabladillo, Mandal
AYES: 7
NOES: 0
ABSENT: 0
ABSTAIN: 0
Motion to approve the Consent Calendar as submitted.
M/S: Mandal, Sandhu

APPROVED
Planning Commission Minutes
January 12, 2011

AYES: 7
NOES: 0
ABSENT: 0
ABSTAIN: 0

- 1. CONDITIONAL USE PERMIT NO. UP10-0015 AND SITE DEVELOPMENT PERMIT NO. SD10-0006:** A request to install a new 8-foot tall monument sign with new interchangeable message center for a religious facility located at 875 So. Park Victoria Drive (APN: 088-32-075) zoned Single Family Residential (R1-6). Applicant: West Coast Signs. Staff Contact: Cindy Hom (408) 586-3284. PJ # 2662. *(Recommendation: Adopt Resolution No. 11-002 approving the project subject to conditions of approval.)*
- 2. CONDITIONAL USE PERMIT AMENDMENT NO. UP10-0022:** A request to locate a 1,820 square foot motorcycle and parts sales facility within an existing multi-tenant building at 269 Houret Drive. (APN: 086-41-004) zoned Very High Density Mixed Use Development with Site and Architectural Overlay District (MXD3-S). Applicant: Gagandeep Sran. Staff Contact: Tiffany Brown (408) 586-3283. PJ # 2685. *(Recommendation: Adopt Resolution No. 11-003 approving the project subject to the conditions of approval.)*

XI. PUBLIC HEARING

1. MODIFICATIONS TO CONDITIONAL USE PERMIT AMENDMENT NO. UA08-0010

Tiffany Brown, Junior Planner, presented a review to determine modifications in conjunction with Section XI-10-63.06 of the Milpitas Zoning Code to the Conditional Use Permit for a restaurant with the service of a full range of alcoholic beverages for onsite consumption located at 78 Dempsey Road. Ms. Brown recommended adopting Resolution No. 11-001 with modified and restated conditions of approval.

Vice-Chair Mandal asked if there is a separate ordinance for night clubs. Ms. Brown stated that this zone does not allow for night clubs.

Commissioner Ciardella asked if the applicant has security. Ms. Brown stated they have security guards. Commissioner Ciardella asked since the last meeting has there been any further calls. Officer Petrakovitz stated they have had two other calls since December 8, 2010.

Commissioner Tao asked about the number of calls in 2010. Officer Petrakovitz stated Club Bahia had 31 calls in 2010. Commissioner Tao wanted to know the time of the calls. Officer Petrakovitz said there were 24 calls after midnight and seven calls before midnight.

Commissioner Tabladillo asked if the calls were residents from Milpitas. Officer Petrakovitz said that is unknown. He said about 35-40% calls do not happen the day of an event.

Commissioner Ciardella asked if changing the hours make a difference. Officer Petrakovitz stated it would show a positive impact. These amendments would help.

Commissioner Sandhu asked out of the 31 calls how many were arrests. Officer Petrakovitz said there were 12-14 arrests with two people hospitalized.

Commissioner Tao asked what the occupancy limit is. Ms. Brown stated the occupancy limit was through the Building Department so the actual Conditional Use Permit to allow for the restaurant did not have an occupancy limit on it.

Chair Tiernan asked if Club Bahia have their Building permit. Ms. Brown said the building permit for the expansion is not completed. Chair Tiernan asked if the 12, 18,

APPROVED

Planning Commission Minutes

January 12, 2011

and 24 review would be after the Building permit is issued.

Commissioner Tabladillo asked if the patrons can bring in outside alcohol. Officer Petrakovitz said their liquor license does not allow outside alcohol to be brought in.

Ed Gomez, 1052 Matterhorn Court, stated they are new and are still learning. He stated he contacted Commander Corpuz if it was possible to hire officers at the restaurant. Mr. Gomez stated he does not know how to handle the situation. They have six security guards. He said if they stop selling alcohol at 10:00 pm it would affect their business. Most of the calls made to MPD were made by Mr. Gomez himself.

Commissioner Ciardella suggested speaking to Dave and Busters regarding security.

Vice-Chair Mandal stated the applicant has to look at safety. Vice-Chair Mandal asked the applicant if he realized he was running his business as a night club. Mr. Gomez said they wanted to have entertainment. It's hard to handle. Vice-Chair Mandal wanted to know what plan they have. Mr. Gomez said they came up with a plan to make it better for all.

Commissioner Tao asked the applicant his job status. Mr. Gomez stated he is the manager of Club Bahia.

Commissioner Mohsin asked how many partners are there. Mr. Gomez stated two partners. Commissioner Mohsin asked if he and Ms. Zavala always present at the restaurant. Mr. Gomez stated he is always at the restaurant. There are five waitresses and two bartenders. There are 6 security guards.

Commissioner Tabladillo is concerned with the expansion. She feels there would be an impact to the community. Commissioner Tabladillo asked if the applicant began to address the issues. Mr. Gomez stated they do have a plan. Commissioner Tabladillo asked how many events they have in a year. Mr. Gomez stated one event per year.

Commissioner Sandhu feels the applicant is not taking this business serious. He is suggesting the applicant consult professional people on how to run a business.

Commissioner Ciardella asked if some of the calls due to the bands. Mr. Gomez stated if the band causes problem they will not return to the business.

Chair Tiernan stated he is disappointed they do not have a concrete proposal to present to the Commission. Chair Tiernan asked if they have applied for the expansion. Mr. Gomez stated his has to pick up the permit. Chair Tiernan asked when that will happen. Mr. Gomez stated next week. Chair Tiernan asked if their license for a restaurant not a night club. Mr. Gomez stated the license is for a restaurant. Chair Tiernan stated the applicant needs a better proposal. Mr. Gomez stated it was too late to submit his proposal.

Commissioner Tao asked how many employees he has. Mr. Gomez said there are 15 employees, five waitresses, two bartenders, two managers, and six security guards.

Chair Tiernan opened the public hearing.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Ciardella, Sandhu

AYES: 7

NOES: 0

APPROVED
Planning Commission Minutes

January 12, 2011

ABSENT: 0

ABSTAIN: 0

Chair Tiernan stated according to the applicant they have not had time to present a proposal.

Vice-Chair Mandal stated the club is impacting the quality of life in Milpitas. He stated there is no concrete plan in effect. He is in favor of staff's recommendation.

Commissioner Ciardella feels the applicant is trying.

Commissioner Sandhu agrees with Vice-Chair Mandal and is in favor of staff's recommendation.

Commissioner Tabladillo believes this business is not adding the quality of life to Milpitas. She feels this business is acting as a night club. She supports staff's recommendation.

Commissioner Mohsin feels this business is acting as a night club and not a restaurant.

Chair Tiernan stated this business is zoned to be a restaurant not a club which he feels is running as a night club.

Motion to adopt Resolution No. 11-001 with modified and restated conditions of approval.

M/S: Sandhu, Tabladillo

AYES: 6

NOES: 1 (Larry Ciardella)

ABSENT: 0

ABSTAIN: 0

**XII.
ADJOURNMENT**

The meeting was adjourned at 9:25 p.m. to the next meeting of January 26, 2011.

Respectfully Submitted,

James Lindsay
Planning & Neighborhood
Services Director

Yvonne Andrade
Recording Secretary

APPROVED
Planning Commission Minutes
January 12, 2011